

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HEADWATER RESEARCH LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD and
SAMSUNG ELECTRONICS AMERICA, INC.,

Defendants.

Case No. 2:23-CV-00103-JRG-RSP

JURY TRIAL DEMANDED

**SAMSUNG’S REPLY IN SUPPORT OF ITS MOTION
FOR SUMMARY JUDGMENT OF INVALIDITY FOR LACK OF WRITTEN
DESCRIPTION BASED ON 35 U.S.C. § 112 (DKT. NO. 178)**

NOTES

* Emphasis added unless otherwise noted.

Abbreviations/Definitions

- Mr. DLI: Erik de la Iglesia
- HW: Headwater Research LLC
- Opp.: Opposition
- *Headwater Research LLC v. Samsung Elecs. Am., Inc.*, Case No. 2:22-cv-00422 (E.D. Tex.) (hereinafter “*HWI*”)

HW spends the bulk of its Opp. addressing strawman arguments Samsung has not made, while failing to adequately rebut Samsung’s primary position: the ’117 patent lacks written description support for the limitation reciting “map[ping] the application identifier ... to a software process” (hereinafter, the “mapping limitation”). HW relies primarily on (1) its expert, who failed to analyze whether the disputed mapping limitation lacks written description support and (2) unsupportable attorney argument. Neither precludes summary judgment. Notably, HW never disputes that the specification’s only references to any “mapping” are unrelated to the limitation-at-issue. HW instead points to a scattershot of other specification excerpts, none of which shows the inventor was in possession of the claimed invention. No dispute of material fact precludes summary judgment on this issue.

I. RESPONSE TO HW’S COUNTER-STATEMENT OF UNDISPUTED FACTS

1, 7–10. Undisputed.

2–4. Disputed. Not material facts nor relevant to the issue before the Court.

5. Undisputed as to the filing date of Samsung’s IPR and challenged claims therein.

Disputed as to the accuracy of HW’s summary of statements contained within Samsung’s IPR as HW provides no citation to evaluate HW’s claim.

6. Undisputed as to Samsung’s claim construction argument. Disputed as to the Court’s “reject[ion]” of said argument. The Court held that “device agents” and “apps” “clearly have different meanings” but recognized that there might be “some overlap.” Dkt. 118 at 13.

11. Disputed.

II. HW RELIES ON MISPLACED EXPERT TESTIMONY AND ATTORNEY ARGUMENT.

First, HW attempts, but fails, to create a dispute of material fact to avoid summary judgment by relying on testimony its expert, Mr. DLI, offered *on a separate issue*. Indeed, the

cited portion of Mr. DLI’s report (i.e. ¶¶ 695-703) concerns whether the specification adequately describes the claimed “application identifier” alone, not whether the mapping limitation is supported. *See* Dkt. 214-2 (DLI Rpt.) ¶ 695 (“I disagree that the specification never describes or supports the claimed application identifier.”). In fact, this portion of Mr. DLI’s report uses the word “map” only once—in a conclusory statement directed to his opinion on the “application identifier” term, which happens to include the surrounding claim language. *Id.* ¶ 697. HW’s Opp. repeatedly cites this lone statement to give the impression that Mr. DLI actually analyzed the mapping limitation in dispute. Opp. at 7, 9, 11, 13. Even assuming Mr. DLI’s singular reference to “mapping” was on point, conclusory expert testimony is insufficient to generate a disputed material fact. *T-Rex Prop. AB v. Regal Ent. Grp.*, No. 6:16-CV-927-JDK-KNM, 2019 WL 4727426, at *5 (E.D. Tex. Sept. 27, 2019) (“Offering only conclusory expert opinions, T-Rex has failed to raise a genuine issue of material fact . . .”).

Second, HW attempts to avoid summary judgment by supplanting its expert’s opinion with attorney argument and attempting to wrongly ascribe those arguments to its expert. Dkt. 214 at 6-12. For example, HW states that Mr. DLI offered opinions related to the specification’s disclosure of an “application ID tag” but then cites to portions of the specification which Mr. DLI ***did not rely on***. *Compare id.* at 10-11 (citing Dkt. 214-2 ¶ 697) *with* Dkt. 214-2 ¶ 697. HW goes on to cite over fifteen excerpts of the ’117 patent specification as providing support for the “mapping limitation,” ***none of which were ever cited by Mr. DLI*** in his § 112 rebuttal opinions: 37:40-42; 41:20-24; 41:42-45; 42:9-15; 44:54-62; 44:62-67; 55:53-54; 55:54-56:10; 69:66-70:5; 88:14-34; 89:14-26; 90:12-46; 92:8-47; 94:42-54; Figs. 24-25. *Compare* Dkt. 214 at 6-12 *with* Dkt. 214-2 ¶¶ 695-703. HW’s reliance on these passages is, in fact, unsupported attorney argument, which cannot preclude summary judgment. *See Intell. Ventures II LLC v. Sprint Spectrum, L.P.*, No.

2:17-CV-00661-JRG-RSP, 2019 WL 7580245, at *9 (E.D. Tex. May 2, 2019) (finding summary judgment appropriate where non-movant provided unsupported “attorney arguments”).

Notwithstanding that the specification excerpts HW cites are attorney argument—not expert opinion—the excerpts still do not provide written description support for the mapping limitation. At best, certain of HW’s citations could relate to whether individual elements of the mapping limitation are disclosed—which is not the standard. *See* Dkt. 178 at 14. Even the few disclosures that both HW and Mr. DLI cite are unrelated to the mapping limitation. For example, HW points to 70:18-21, which teaches that “the service control server link 1638 and/or service download control server 1660 use(s) an agent serial number and/or a security key look up when agents are updated and/or when a dynamic agent download occurs.” Dkt. 178-1. This passage concerns updating agents via secure communications, not mapping an application identifier to a software process, i.e. the mapping limitation at issue. HW—but not Mr. DLI—also points to Figs. 24-25 and their related disclosures (*e.g.*, 88:14-34, 90:12-46) as additional support. HW fails to explain how such disclosures relate to the mapping limitation. These passages disclose only the concept of general secure communications between agents, not mapping an application identifier to a software process. *See id.* at 88:14-34 (discussing “agent to agent communication”), 90:12-46 (discussing messaging between agents). Neither HW nor its expert (albeit while analyzing a separate issue) identify sufficient support for the mapping limitation.

III. SAMSUNG’S MOTION DOES NOT TURN ON WHETHER THE WORDS “SOFTWARE PROCESS” APPEAR IN THE SPECIFICATION.

Contrary to the strawman in HW’s Opp. (Dkt. 214 at 12), Samsung’s written description argument does not rest on whether the words “software process” appear verbatim in the specification. Nor does Samsung’s motion turn on whether the “software process” element alone (or any other individual element) is disclosed. Samsung’s motion instead focuses on whether the

specification provides written description support for the entire challenged “mapping” limitation. Dkt. 178 at 7. Even still, HW’s argument, which purports to show how a POSITA would “understand [] the claimed ‘software process’” term from the specification (Dkt. 214 at 13), relies on stitched-together excerpts from unrelated portions of Mr. DLI’s report to manufacture arguments that Mr. DLI never made. *See id.* (citing ¶ 708 of Mr. DLI’s report which addresses the “secure interprocess communications” term).

IV. SAMSUNG’S MOTION DOES NOT TURN ON ANY DISTINCTION BETWEEN “APPLICATIONS” AND “AGENTS.”

HW misstates that “Samsung’s argument rests on its assertion that the terms ‘applications’ and ‘agents’ are different.” *Id.* at 14. Not so. The specification lacks adequate support for the mapping limitation regardless of the degree of overlap between the “application” and “agent” claim terms. HW cannot identify adequate specification support for the mapping limitation, regardless of whether “applications” and “agents” are different, synonymous, or overlapping.

Further, whether a POSITA would be familiar with the singular concept of an “application identifier” or would find it obvious (*see id.* at 16) is irrelevant as (1) Samsung’s argument is not directed to the concept of an “application identifier” in isolation, and (2) HW’s argument misstates the legal standard for evaluating written description. *See Rivera v. Int’l Trade Comm’n*, 857 F.3d 1315, 1322 (Fed. Cir. 2017) (holding the knowledge of a POSITA “may be used to inform what is actually in the specification,” but may “not [] teach limitations that are not in the specification, even if those limitations would be rendered obvious”). HW’s limited reliance on *Zoltek* and *Falkner* to argue that concepts familiar to a POSITA do not need to be specifically discussed is misplaced because here—when considering the disputed term as a whole—HW acknowledges that named inventor and POSITA, “Dr. Raleigh[,] testified that . . . the concept of mapping an application identifier in a message to a software process *was not known in the field.*” Dkt. 214 at

5 (emphasis added); *Zoltek Corp. v. U.S.*, 815 F.3d 1302, 1308 (Fed. Cir. 2016) (“The [written description] requirement is applied in the context of the state of knowledge at the time of the invention.”); *Falko-Gunter Falkner v. Inglis*, 448 F.3d 1357, 1366 (Fed. Cir. 2006) (finding written description requirement satisfied, in part, based on expert testimony which “established that the articles describing essential genes for poxvirus were well-known in the art”).

V. HW FAILS TO DISTINGUISH SAMSUNG’S CASE LAW.

HW attempts to summarily dismiss Samsung’s case law by stating that the ’117 patent specification “commonly uses the same reference numbers to refer to the same components.” Dkt. 214 at 16. HW fails to explain why this is relevant to the disputed issue, nor how it justifies ignoring Samsung’s case law. HW then concludes by citing specification excerpts discussing gateways and a communication bus without relating the excerpts to the mapping limitation at issue.

Dated: November 12, 2024

Respectfully submitted,

By: /s/Benjamin K. Thompson

Ruffin B. Cordell

TX Bar No. 04820550

Michael J. McKeon

DC Bar No. 459780

mckeon@fr.com

Jared Hartzman

DC Bar No. 1034255

hartzman@fr.com

FISH & RICHARDSON P.C.

1000 Maine Avenue, SW, Ste 1000

Washington, D.C. 20024

Telephone: (202) 783-5070

Facsimile: (202) 783-2331

Thad C. Kodish

GA Bar No. 427603

tkodish@fr.com

Benjamin K. Thompson

GA Bar No. 633211

bthompson@fr.com

Jonathan B. Bright

GA Bar No. 256953

jbright@fr.com

Christopher O. Green

GA Bar No. 037617

cgreen@fr.com

Noah C. Graubart

GA Bar No. 141862

graubart@fr.com

Sara C. Fish

GA Bar No. 873853

sfish@fr.com

Katherine H. Reardon

NY Bar No. 5196910

reardon@fr.com

Nicholas A. Gallo

GA Bar No. 546590

gallo@fr.com

Vivian C. Keller (*pro hac vice*)

GA Bar No. 651500

keller@fr.com

FISH & RICHARDSON P.C.

1180 Peachtree St. NE, Fl. 21
Atlanta, GA 30309
Telephone: (404) 892-5005
Facsimile: (404) 892-5002

Leonard E. Davis
TX Bar No. 05521600
ldavis@fr.com
Andria Rae Crisler
TX Bar No. 24093792
crisler@fr.com
Thomas H. Reger II
Texas Bar No. 24032992
reger@fr.com
FISH & RICHARDSON P.C.
1717 Main Street, Suite 5000
Dallas, TX 75201
Telephone: (214)747-5070
Facsimile: (214) 747-2091

John-Paul R. Fryckman (*pro hac vice*)
CA Bar No. 317591
John W. Thornburgh
CA Bar No. 154627
thornburgh@fr.com
FISH & RICHARDSON P.C.
12860 El Camino Real, Ste. 400
San Diego, CA 92130
Telephone: (858) 678-5070
Facsimile: (858) 678-5099

Katherine D. Prescott (*pro hac vice*)
CA Bar No. 215496
prescott@fr.com
FISH & RICHARDSON P.C.
500 Arguello Street
Suite 400
Redwood City, CA 94063
Telephone: (650) 839-5180
Facsimile: (650) 839-5071

Kyle J. Fleming (*pro hac vice*)
NY Bar No. 5855499
kfleming@fr.com
FISH & RICHARDSON P.C.
7 Times Square, 20th Floor,
New York, NY 10036

Telephone: (212) 765-5070

Facsimile: (212) 258-2291

Melissa R. Smith

State Bar No. 24001351

Melissa@gillamsmithlaw.com

GILLAM & SMITH, LLP

303 South Washington Avenue

Marshall, Texas 75670

Telephone: (903) 934-8450

Facsimile: (903) 934-9257

Andrew Thompson ("Tom") Gorham

State Bar No. 24012715

tom@gillamsmithlaw.com

GILLAM & SMITH, LLP

102 N. College, Suite 800

Tyler, Texas 75702

Telephone: (903) 934-8450

Facsimile: (903) 934-9257

Michael E. Jones

State Bar No. 10929400

mikejones@potterminton.com

Shaun W. Hassett

State Bar No. 24074372

shaunhassett@potterminton.com

POTTER MINTON, P.C.

102 N. College Ave., Suite 900

Tyler, Texas 75702

Telephone: (903) 597-8311

Facsimile: (903) 593-0846

Lance Lin Yang

CA. Bar No. 260705

Lanceyang@quinnemanuel.com

Kevin (Gyushik) Jang

CA Bar No. 337747

kevinjang@quinnemanuel.com

Sean S. Pak

CA Bar No. 219032

seanpak@quinnemanuel.com

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

50 California Street, 22nd Floor

San Francisco, CA 94111

Telephone: (415) 875-6600

Brady Huynh (admitted *pro hac vice*)

CA Bar No. 339441

bradyhuynh@quinnemanuel.com

**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**

555 Twin Dolphin Drive, 5th Floor

Redwood Shores, CA 94065

Telephone: (650) 801-5000

Facsimile: (650) 801-5100

Jon Bentley Hyland

Texas Bar No. 24046131

jhyland@hilgersgraben.com

Grant K. Schmidt

Texas Bar No. 24084579

gschmidt@hilgersgraben.com

HILGERS GRABEN PLLC

7859 Walnut Hill Lane, Suite 335

Dallas, Texas 75230

Telephone: (972) 645-3097

ATTORNEYS FOR DEFENDANTS

SAMSUNG ELECTRONICS CO., LTD. AND

SAMSUNG ELECTRONICS AMERICA, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on November 12, 2024. As of this date, all counsel of record had consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

/s/ Benjamin K. Thompson

Benjamin K. Thompson